

Jun 30 06 06:05p

THLLP

6316655101

p.1

RECEIVED
CENTRAL FAX CENTER

JUN 30 2006

Patent

Serial No. 09/963,631

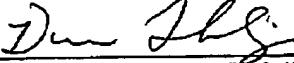
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

TO THE UNITED STATES PATENT AND TRADEMARK OFFICE

(571) 273-8300

I certify that this document consisting of 22 pages (including 19 sheets of Appeal Brief and 1 sheet of Authorization to charge credit card) is being transmitted via facsimile to the United States Patent and Trademark Office at the telephone number set forth above on June 30, 2006.

By


(Signature) Dicran Halajian

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Atty. Docket

WILLEM JAN DOUWE VAN BEEK

NL 000544

Serial No. 09/963,631

Confirmation No. 9731
Group Art Unit: 2617

Filed: SEPTEMBER 26, 2001

Examiner: AU, GARY

Title: CATV SYSTEM

Mail Stop Appeal Brief-Patents
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Enclosed is an Appeal Brief in the above-identified patent application.

Please charge the Appeal Brief fee of \$500 to the credit card as noted in the enclosed authorization to charge credit card form.

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

It is believed that no additional fees or charges are currently due beyond the fee for the Appeal Brief to be charged to the credit card as noted by the enclosed authorization. However, in the event that any additional fees or charges are required for entrance of the present Appeal Brief, they may be charged to Appellant's representatives Deposit Account No. 50-3649.

In addition, please credit any overpayments related to any fees paid in connection with the present Appeal Brief to Deposit Account No. 50-3649.

Respectfully submitted,

By Dicran Halajian
Dicran Halajian, Reg. 39,703
Attorney for Appellant
June 30, 2006

Enclosure: Appeal Brief
Authorization to charge credit card \$500 for Appeal
Brief fee

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101

Jun 30 06 06:05p

THLLP

6316655101

p.4

RECEIVED
CENTRAL FAX CENTER

JUN 30 2006

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Atty. Docket

WILLEM JAN DOUWE VAN BEEK

NL 000544

Serial No. 09/963,631

Confirmation No. 9731
Group Art Unit: 2617

Filed: SEPTEMBER 26, 2001

Examiner: AU, GARY

Title: CATV SYSTEM

Mail Stop Appeal Brief-Patents
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows, having mailed a Notice of Appeal on April 28, 2006, which was received by the Patent and Trademark Office on May 1, 2006:

07/03/2006 MBINAS 00000054 09963631

01 FC:1402

500.00 OP

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of record Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

Patent
Serial No. C9/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

STATUS OF CLAIMS

Claims 11-18 are pending in this application. Claims 11-18 are rejected in the Final Office Action mailed January 30, 2006. Claims 11-18 are the subject of this appeal.

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

STATUS OF AMENDMENTS

Appellant filed on March 28, 2006 an after final amendment in response to a Final Office Action dated January 30, 2006. The after final amendment was entered as indicated in the Advisory Action mailed on April 13, 2006. This Appeal Brief is in response to the Final Office Action mailed January 30, 2006 that finally rejected Claims 11-18, which remain finally rejected in the Advisory Action mailed on April 13, 2006.

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, for example, as claimed in independent Claims 11 and 15, where illustrative embodiments are shown in FIGS 1-3, relates to a receiver and a method that include receiving signals, such as television signals having equally spaced and sized frequency channels 10, such as 6 MHz, where three channels 10 are shown in FIG 2, and centered around 394, 400 and 406 MHz, as described on page 5, lines 21-30 of the specification. Illustratively, the channels 10 are within a frequency band 12 from 50MHz to 864MHz, as described on page 5, lines 30-31.

FIG 3 shows one the 6 MHz wide frequency channels, such as the channel centered at 400 MHz. As shown in FIG 3 and described on page 3, line 32, to page 4, line 4 of the specification, each channel includes various frequency regions 20, 22, 24, where it is known that the quality of a signal within a channel is frequency dependent in such a way that the quality is highest in region 24 near the center of the channel 10, for example.

As described on page 4, lines 11-24, to quickly search and

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

acquire a frequency channel, a search is started at a predetermined frequency value being within the known frequency region of the channel, such as starting from the center region 24 for example.

After starting the search at the predetermined frequency value, the frequency band is stepwise scanned in frequency steps beginning from the center region 24, for example.

The frequency steps are substantially equal to the bandwidth of the frequency channels, such as 6 MHz for example, so that each step takes the scanning to a particular segment of the frequency band that is contained within the respective region of a successive channel known to likely have a good quality signal that may be acquired quickly. The speed of signal acquisition is further increased by using wide steps, such as 6 MHz wide steps, instead of narrower steps, such as the typical 200 KHz to 250 KHz described on page 3, lines 26-29.

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether Claims 11-18 of U.S. Patent Application Serial No. 09/963,631 are anticipated under 35 U.S.C. §102(e) by U.S. Patent No. 6,574,796 (Roeck).

The Appellant respectfully requests the Board to address the patentability of independent Claims 11 and 15, and further Claims 12-14 and 16-18 as depending on Claims 11 and 15, based on the requirements of independent Claims 11 and 15. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, the Appellant herein specifically reserves the right to argue and address the patentability of Claims 12-14 and 16-18 at a later date should the separately patentable subject matter of Claims 12-14 and 16-18 later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of independent Claims 11 and 15 is not intended as a waiver of Appellant's right to argue the patentability of the further claims and claim elements at that later time.

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

ARGUMENT

Claims 11-18 are said to be anticipated by Roeck.

Roeck is directed to an apparatus for detecting a data carrier in a downstream channel by a cable modem. Column 4, lines 59-64 is cited to allegedly show the recitation of independent claims 1 and 15, namely:

stepwise scanning segments of the frequency band from the predetermined frequency value in accordance with frequency steps, the frequency steps being substantially equal to the bandwidth of the frequency channels. (Emphasis added)

Applicant respectfully disagrees. In particular, Roeck specifically recites in column 4, line 52, to column 5, line 2:

Another technique for locating the correct data carrier frequency channel is having the cable modem check each potential frequency as provided for in a frequency plan. A frequency plan is a list of frequencies used in a particular geographical area in a cable plant. Presently, there are about six frequency plans in use across the country. However, the number of plans is increasing and will likely keep growing as the number of subscribers increases. For example, a frequency plan can specify that each frequency channel starting at every 6th MHz, beginning with 88 MHz is a potential data carrier. The cable

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

modem checks all frequency channels according to the list to locate the correct data carrier (there will only be one from the list that works for a particular geographical area, the list itself is used by one cable plant that covers several geographical areas). However, searching the list for the correct data carrier can take up to 20 minutes. This is because it can take up to 500 milliseconds to check each potential channel.
(Emphasis added)

The above-noted section of Roeck merely recites that a frequency plan specifies the existence of channels starting at every 6th MHz, beginning with 88 MHz. This disclosure of Roeck in no way teaches or suggest the manner of scanning, let alone teaching or suggesting to scan using steps that are substantially equal to the bandwidth of the frequency channels, as recited in independent claims 1 and 15.

This section of Roeck is totally silent about 'how' to scan, such as the step sizes used for scanning. The fact that Roeck discloses channels that are 6 MHz wide has nothing to do with 'how' such channels are scanned or the size of any frequency steps used for scanning. There are practically infinite numbers of ways to search and scan, using many different schemes, step sizes, etc.

Even assuming, arguendo, that Roeck discloses searching the

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

frequency channels in a stepwise fashion, there are still practically infinite number of ways and step sizes that may be used in performing such a stepwise search. The fact that Roeck teaches that the frequency channel starts at every 6th MHz has nothing to do, and does not teach or suggest, 'how' scanning or searching is performed let alone teaching or suggesting scanning in steps that are substantially equal to the bandwidth of the frequency channels, such as scanning in 6 MHz steps.

Most likely, the scanning discussed in the above noted section of Roeck is similar to that described in the background section of the present application, such as on page 3, lines 26-29, where typically small frequency steps are used such as 200 KHz to 250 KHz, thus requiring more time to scan than when larger steps are used, such as 6 MHz for example.

In fact, the end of the above-noted section of Roeck recites that it takes too long, such as "up to 20 minutes" to search, most likely because this section of Roeck is describing searches using small conventional step sizes of 200-250 KHz, for example.

Roeck simply does not teach or suggest the particular features

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

of the present invention as recited in independent claims 11 and 15 which, amongst other patentable features, requires (illustrative emphasis provided):

stepwise scanning segments of the frequency band from the predetermined frequency value in accordance with frequency steps, the frequency steps being substantially equal to the bandwidth of the frequency channels.

Accordingly, it is respectfully submitted that independent claims 11 and 15 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 12-14 and 16-18 should also be allowed at least based on their dependence from independent claims 11 and 15.

In addition, Appellant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Appellant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

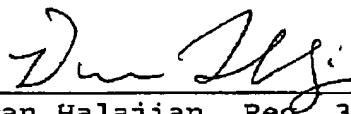
Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

CONCLUSION

Claims 11-18 are patentable Roeck.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By 
Dicran Halajian, Reg. 39,703
Attorney for Appellant
June 30, 2006

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101

?Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

CLAIMS APPENDIX

Claims 1-10 (Canceled)

11. (Previously Presented) A receiver comprising:
means for receiving signals in a frequency band, the frequency band having a plurality of substantially equally spaced and sized frequency channels, each channel comprising a respective plurality of frequency regions, each respective plurality comprising a respective known frequency region in which data signals are most easily detectable; and
means for searching the band for at least one channel containing useful data, the searching means being adapted to perform operations, the operations comprising:
starting the search with a predetermined frequency value, this predetermined frequency value being within the respective known frequency region of a given channel; and
stepwise scanning segments of the frequency band from the predetermined frequency value in accordance with frequency steps,

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

the frequency steps being substantially equal to the bandwidth of the frequency channels, the segments being frequency sub-bands that are substantially narrower than a channel, so that each step takes the scanning to a particular segment of the frequency band that is contained within the respective known region of a successive channel.

12. (Previously Presented) The receiver of claim 11, wherein the predetermined frequency value is based on the last known good signal.

13. (Previously Presented) The receiver of claim 11, wherein the predetermined frequency value is preprogrammed.

14. (Previously Presented) A CATV system comprising a primary station and a secondary station, which secondary station comprises a receiver as recited in claim 11.

15. (Previously Presented) A method comprising executing

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

operations in at least one data processing device, the operations comprising:

receiving signals in a frequency band, the frequency band having a plurality of substantially equally spaced and sized frequency channels, each channel comprising a respective plurality of frequency regions, each respective plurality comprising a respective known frequency region in which data signals are most easily detectable; and

searching the band for at least one channel containing useful data, the searching comprising:

starting the search with a predetermined frequency value, this predetermined frequency value being within the respective known frequency region of a given channel; and

stepwise scanning segments of the frequency band from the predetermined frequency value in accordance with frequency steps, the frequency steps being substantially equal to the bandwidth of the frequency channels, the segments being frequency sub-bands that are substantially narrower than a channel, so that each step takes the scanning to a particular segment of the frequency band that is

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

contained within the respective known region of a successive channel.

16. (Previously Presented) The method of claim 15, wherein the predetermined frequency value is based on the last known good signal.

17. (Previously Presented) The method of claim 15, wherein the predetermined frequency value is preprogrammed.

18. (Previously Presented) The method of claim 15, wherein the data processing device comprises a television receiver coupled to a CATV system.

Patent
Serial No. C9/953,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

EVIDENCE APPENDIX

None

Patent
Serial No. 09/963,631
Appeal Brief in Reply to Final Office Action of January 30, 2006,
and Advisory Action of April 13, 2006

RELATED PROCEEDINGS APPENDIX

None